

\* Second Submission

RECEIVED

APR 28 2020

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT  
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mr. Allen Dupree Garrett

COMPLAINT

(Enter above the full name of the plaintiff in this action)

V.

Civil Action No. \_\_\_\_\_

Capt. of Camden Co. Corr. Fac. et. Al

(To be supplied by the Clerk of the Court)

Governor of the State of New Jersey et Al

(Enter the full name of the defendant or defendants in this action)

INSTRUCTIONS; READ CAREFULLY

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any question, attach a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District Court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$400.00 (a filing fee of \$350.00, and an administrative fee of \$50.00), your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

6. If you cannot prepay the \$400.00 fee, you may request permission to proceed in forma pauperis in accordance with the procedures set forth in the application to proceed in forma pauperis. See 28 U.S.C. §1915. (If there is more than one plaintiff, each plaintiff must separately request permission to proceed in forma pauperis.)

7. If you are given permission to proceed in forma pauperis, the \$50.00 Administrative Fee will not be assessed. The Clerk will prepare and issue a copy of the summons for each defendant. The copies of summonses and the copies of the complaint which you have submitted will be forwarded by the Clerk to the United States Marshal, who is responsible for service. The Marshal has USM-285 forms you must complete so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

### **QUESTIONS TO BE ANSWERED**

1a. Jurisdiction is asserted pursuant to (CHECK ONE)

☒ 42 U.S.C. §1983 (applies to state prisoners)

☐ Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

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1b. Indicate whether you are a prisoner or other confined person as follows:

☒ Pretrial detainee

☐ Civilly-committed detainee

☐ Immigration detainee

☐ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☐ Other: (please explain) \_\_\_\_\_

## 2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility, brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

## a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_  
 \_\_\_\_\_

Defendant(s): \_\_\_\_\_  
 \_\_\_\_\_

## b. Court and docket number: \_\_\_\_\_

- c. Grounds for dismissal: ( ) frivolous ( ) malicious  
 ( ) failure to state a claim upon which relief may be granted

## d. Approximate date of filing lawsuit: \_\_\_\_\_

## e. Approximate date of disposition: \_\_\_\_\_

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on separate sheets.

3. Place of Present Confinement? Camden County Correctional Facility  
Camden New Jersey

## 4. Parties

(In item (a) below, place your name in the first blank and place your present address in the second blank. Do the same for additional Plaintiffs, if any.)

- a. Name of plaintiff: Allen Dupree Garrett

Address: 330 Federal Street

Inmate#: #4366289

b. First defendant:

Name: Phil Murphy

Official position: Governor of the

Place of employment: State of New Jersey

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

Negligence - (Closed Courts) Bell v. Wolfish 99 Sct 1861 Fifth Amendment violation = Statewide Emergency - The executive power; The Governor is vested by under 1953 N.J. Laws 438-34 with broad powers to cope with an Emergency and "equally", to avoid or protect against any Emergency

c. Second defendant:

Name: Rebecca Franceschini #9

Official position: Captain

Place of employment: Camden Co. Correctional Facility

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

Eighth Amendment violation Natale v. Camden city Corr. Facility 318 F3d 575, 58. In Farmer v. Brennan 114 Sct 1970 the Officials knows of and disregard an excessive risk to inmate health or safety.

- d. If there are more than two defendants, attach a separate sheet. For each defendant specify: (1) name, (2) official position, (3) place of employment, and (4) involvement of the defendant.

5. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in the Statement of Claims on page 6.

☒ Yes ☐ No (See Attachment)

If your answer is "Yes," briefly describe the steps taken, including how relief was sought, from whom you sought relief, and the results.

- ① Hon. Judge E. J. McBride Jr. (No Action taken) Prejudicial Error  
 ② Pre-indictment Delay *United States v. Scott* 98 S.Ct 2187,  
*State v. Golotta* 354 N.J. Super 477 (No Action taken)

If your answer is "No," briefly explain why administrative remedies were not exhausted.

6. Statement of Claims

(State here as briefly as possible the facts of your case. Describe how each defendant violated your rights, giving dates and places. If you do not specify how each defendant violated your rights and the date(s) and place of the violations, your complaint may be dismissed. Include also the names of other persons who are involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach a separate sheet if necessary.)

28 USC 1915(G) under imminent danger of serious physical injury,  
 42 USC 1983 under *Leamer v. Fauver* 288 F.3d 532, 540 (3d cir 2002)  
 Attack on the conditions of confinement cognizable only in extreme case  
*Ali v. Gibson* 572 F.2d 971 and *Woodall v. Federal Bureau of Prisons*  
 432 F.3d 235 (3d cir 2005)  
 County jails were not designed with pandemics in mind. New Jersey jails  
 are constructed to handle more persons whether they be detainees or inmates  
*Hutto v. Finney* 98 S.Ct 2565



Alston v. Parker 363 F.3d 229 under Fed R. Civ. P. 8(e) (noted).  
It is clear that pretrial incarceration # 20-000746-001  
can cause serious mental pain as the accused lives under  
a cloud of anxiety, suspicion, and often hostility, generally loses  
his job and his ability to gather evidence and contact witness,  
and often has his family life disrupted. The Third circuit has stated  
that such anxiety in a defendant is one of the evils against which  
the Sixth Amendment is designed to protect. The anxiety is certainly more  
prejudicial to those persons who are ultimately found to be innocent.

Irreparable Harm - harm is imminent and probable Anderson 125 F.3d at  
164, The virus that causes Covid-19 is the Severe acute respiratory  
Syndrome Coronavirus 2 also known as Sars-cov-2 and the covid-19  
virus. Covid-19 can be drastically more severe in older individuals.

(Age 45 - 1974) June 25<sup>th</sup> (Sickened Feb - March 2020 in C.C.C.F.)  
including persons with asthma, Lung disease, heart disease, diabetics,  
chronic kidney disease, liver disease, or those whom are ~~more~~ immunocompromised.

A Detainee is entitled no less a level of medical care than that  
required for convicted prisoners by the U.S. const. Amend VIII Atkinson v. Taylor  
316 F.3d 257 (3rd cir 2003) Likewise Covid-19.

monell v. Dept of Soc Servs 436 US 658 municipalities were not wholly  
immune from liability under Civil Rights Acts 1871 and could be sued  
for all types of relief when execution of a Government Policy inflicted the  
injury. 18 USC 3006A montgomery v. pinchak 294 F.3d 492  
Appoint Counsel Please.

furthermore. Thakker NA 1:20 cv 480 Doc 47 2020 US Dist Lexis 59459 at 21  
Judge Jones granted relief directed petitioners immediate release  
926 B.S. 6<sup>th</sup> Street Camden N.J. 08103

swen v. city of independence 445 US. 622, 638 (1980) County cannot  
raise Immunity. Citing medical Records Release Info.

## 7. Relief

5 USC 552 B6 under FRE 501

Quoting 438 F.2d 570 Subpoena Enforced

(State briefly exactly what you want the Court to do for you. Make no  
legal arguments. Cite no cases or statutes.)

Immediate Release and \$100,000,000<sup>00</sup> million dollars.

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8. Do you request a jury or non-jury trial? (Check only one)

( ) Jury Trial (✓) Non-Jury Trial

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 22 day of April, 2020

Mr. Allen Depree Garrett Grose

Signature of plaintiff\*

(\*EACH PLAINTIFF NAMED IN THE COMPLAINT MUST SIGN THE COMPLAINT HERE. ADD ADDITIONAL LINES IF THERE IS MORE THAN ONE PLAINTIFF. REMEMBER, EACH PLAINTIFF MUST SIGN THE COMPLAINT).

APR 16 2020

SHIPPED APR 16 2020

From: JSC

To: Date: 4/7/2020

me. Allen Dupree Garrett prose  
v.Hon. Judge E. J. McBride,  
"Prejudicial Error"

State of New Jersey

Defendant Argues: Under State v. Williams 461 N.J. Super 534 N.J. Superior Courts Appellate Division Dec, 2 2019.

Trial court erred in stacking "excludable time periods" by disregarding pretrial motions that were for a while, pending at the (time) "same time" because under Criminal Justice Reform Act the excludable time began to run with the eligible pretrial motion "filing" date N.J.S.A. 2A:162-22 b)(1)(c) and R. 3:25-(4)(3); the trial courts error mistakenly allowed the prosecution eighty-two more days of excludable time than permissible. Reversed and Remanded.

- ① Judge Michele M. Fox revoked bail first week of Feb. 2020 with 7 days to appeal A) NO Action taken on Appeal. B) New Judge 2/14/2020 Second Appeal for bail - no action taken.
- ② motion of Dismissal upon Delay of Disposition Hearing of "Neglect" - NO Action taken.
- ③ Request Bail Release or Disposal of matter cam 20-000746-001.

cc. Raquel Destefano esq:

Sincerely,

Acting: prose mr. Allen Dupree Garrett



OMS		Offender Management System						
Accounting Transactions And Balances								
Today's Date: 4/17/2020 15:00								
Inmate Name: GARRETT, ALLEN DUPREE		Current Balance: \$0.00	Booking # 4366289 Permanent # 0400110276					
Receipt #	Transaction Date/Time	Transaction Type	Transaction #	Withdrawals	Deposits	Cost Recovery Collected	To Cost Recovery	Balance
<b>MAIN Inmate Fund</b>								
1100340	01/30/20 14:46	CR - User Initial Fee	2058809	\$35.00			\$35.00 CR - User Initial Fee	\$0.00
1132980	02/27/20 09:51	CR - Welfare Pack	2124342	\$4.00			\$4.00 CR - Welfare Pack	\$0.00
1142012	03/05/20 12:48	CR - Undergarments	2142409	\$4.66			\$4.66 CR - Undergarments	\$0.00
1159744	03/20/20 11:50	CR - Undergarments	2178140	\$5.49			\$5.49 CR - Undergarments	\$0.00
1186698	04/15/20 10:37	CR - Welfare Pack	2233978	\$4.00			\$4.00 CR - Welfare Pack	\$0.00
Account Type	Current Balance	Assigned Cost Recovery	Balance Due					
MAIN Inmate Fund	\$0.00	CR - User Initial Fee	\$35.00					
		CR - Welfare Pack	\$8.00					
		CR - Undergarments	\$10.15					
<b>Totals:</b>	<b>\$0.00</b>	<b>Totals:</b>	<b>\$53.15</b>					